

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH
ERNAKULAM

Date of Decision : 8.6.1989

PRESENT

Hon'ble Sri S.P.Mukerji, V.C.
Hon'ble Sri G.S.Sharma, J.M.

Registration No. O.A. 242 of 1987

K.C.Chami and another Applicants

vs.

1. Union of India
2. The Sr.Divisional Personnel
Officer, Southern Railway,
Palghat
3. Inspector of Works,
Cannanore and Respondents.
4. Permanent Way Inspector
Cannanore.

Sri V.R.Ramachandran Nair: Learned counsel for the
Sri K.Ramakumar Applicants

Sri T.A.Rajang : Learned counsel for the
Sri M.C.Cherian Respondents.

JUDGMENT

(By Hon'ble G.S.Sharma, JM)

In this Original Application, the Applicants have prayed that the Respondents be directed to grant them higher scale of pay from the dates of their acquiring the temporary status.

2. The undisputed facts of this case are that the Applicant no.1 had joined the Southern Railway as a Bricklayer casual labourer on 21.6.78 and had acquired temporary status and was granted the ^{regular} ~~revised~~ scale of pay vide order dated 28.1.1982 by the Respondent no.2. Similarly the Applicant no.2 had joined the Southern Railway as a

Blacksmith casual labourer ~~from~~ ^{on} 1.1.1981 and was granted temporary status and the pay scale on 21.9.1981. The grievance of the Applicants is that on getting temporary status they were entitled to the pay in the higher scale of Rs.260-400 but the same was not paid despite representations. According to them, it amounts to discrimination against them and the denial of equal pay and as such, they preferred this joint Application.

3. The respondents have contested the case and in the counter affidavit filed on their behalf, it has been stated that the Applicants had joined the railway service as/casual labourers and on getting the temporary status, they should have been paid the higher scale of pay but by mistake it was not done and later on when it was detected, they were granted the higher scale for the skilled work done by them from 21.8.1980 to 20.2.1982 and 21.9.1981 to 20.5.1982 respectively with arrears of pay. The sanction for the engagement of the casual labourers under which the Applicants were working expired on 20.2.82 and 20.9.82 respectively and in the normal course, the Applicants should have been retrenched but they were allowed to continue to work under the Respondent nos. 3 and 4 as before but as Man Mazdoor and casual labourer gangman respectively. The Applicants are, therefore, not entitled to the higher scale of pay from the said dates and they have no right to approach this Tribunal.

4. In the rejoinder filed on behalf of the Applicants they maintained that they are still doing the skilled work as Bricklayer and Blacksmith and the stand taken by the Respondents is not correct and this can be verified by asking the Respondents to produce the relevant register etc.

5. At the time of arguments before us in this case, the learned counsel for the Applicants placed before us a diary of the work done by the Applicant no.1 from 21.5.1985 to 12.10.1987 to show that he is still working as a skilled employee. This contention is, however, belied by this diary as the Applicant No.1 has been mentioned as CPC Mazdoor and not as Bricklayer or skilled worker. We have no other evidence before us in support of the contention that after 20.2.1982 and 20.5.1982 respectively, the Applicants had ever worked as Skilled Workmen or as Bricklayer and Blacksmith. The Respondents frankly admitted their mistake by not granting the higher pay scale for the period they had worked as Skilled Workmen and they by passing the orders dated 7.8.1987 and 29.2.1987, copies Ex.R-1(a) and R-1(b) rectified this mistake and granted proper higher pay scale to them and we see no reason why they could not do so for the subsequent period if in fact the Applicants had been working as Skilled Workmen subsequent to the said dates. The contention of the Applicants does not find support from the diary of the Applicant no.1 produced before us, as discussed above, and there is no material before us to support their contention for getting the higher pay scale permissible to Skilled Workmen. We, therefore, see no reason to disbelieve the stand taken by the Respondents. In the result, this Application has no merit and has to be dismissed.

6. The Application is accordingly dismissed without any orders as to costs.

sharma

(G.S. SHARMA)
JUDICIAL MEMBER

S.P.M.
8/6/89

(S.P. MUKERJI)
VICE CHAIRMAN.

Dated: 8.6.1989
kkb.